

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

MKB Management Corp, d/b/a Red River )  
Women's Clinic, and Kathryn L. )  
Eggleston, M.D., )

Plaintiffs, )

vs. )

Birch Burdick, in his official capacity as )  
State Attorney for Cass County; Wayne )  
Stenehjem, in his official capacity as )  
Attorney General for the State of North )  
Dakota; and Larry Johnson, M.D., Robert )  
Tanous, D.O., Kate Larson, P.A.C., )  
Norman Byers, M.D., Cory Miller, M.D., )  
Kayleen Wardner, Garylord Kavlie, M.D., )  
Kent Martin, M.D., Kent Hoerauf, M.D., )  
Burt Riskedahl, Jonathan Haug, M.D., )  
Genevieve Goven, M.D., and Robert J. )  
Olson, M.D., in their official capacities as )  
members of the North Dakota Board of )  
Medical Examiners, )

Defendants. )

**ORDER RE HEARING ON  
SCOPE OF DISCOVERY,  
DISCOVERY DISPUTES, AND  
SCHEDULING**

Case No. 1:13-cv-071

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It appears obvious from plaintiffs' counsel's e-mail of November 6, 2013, and attachments (copies of which were sent to all parties), that there are serious, fundamental differences over the scope of discovery in this case. Consequently, the telephonic conference scheduled for Tuesday, November 12, 2013, at 2:30 p.m. will be an *on the record* conference to address the proper issues for discovery in light of the court's rulings to date and governing United States Supreme Court precedent. In particular, the parties should be prepared to address what discovery should be permitted, if any, that goes beyond the narrow questions of when viability commences and whether that is at or before the time of the ability to detect a fetal heartbeat. In addition, the parties should

be prepared to address the merits of the discovery disputes that the parties have identified as well as any scheduling issues that need to be resolved.

**IT IS SO ORDERED.**

Dated this 7th day of November, 2013.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court